The obligations of the proprietor are simply confined to the payment of the money, either upon the completion of the works or at the epochs specifically agreed upon. If any alterations in the work contracted for be made with the consent of the proprietor, he is equally bound to pay for them; but it is advisable that the builder do not commence any such extra works without previously receiving written instructions.

It is not allowed to alter the conditions of price which may have been agreed upon between the parties, upon the pretence that an augmentation has taken place either in the rate of wages or the value of materials subsequently to the conclusion of the bargain. So many lawsuits had been commenced upon that ground, that a special article, No. 1793, was introduced into the *Code Civil*, to guard against any future litigation upon the subject. The same article also states that no augmentation can be claimed for extra works unless they be ordered as such, and in writing. Works to be measured and paid for after completion are regulated, as to the fixing of prices at least, by their value at the time of measurement.

The proprietor is also bound to procure the builder proper access to the works, and to fulfil all the legal observances necessary to obtain the authorization to commence their execution; such as the settling of the "alignement," or the front line upon the street, or any other formalities imposed by the municipality before commencing the works.

Any risk attached to the works during their execution falls to the charge of the builder, or of the proprietor, according to the conditions of the bargain. Thus, if the builder agree to deliver a construction of any kind, and to furnish all labour and materials, the loss is his in case of fire, flood, lightning, or armed violence. If he only furnish labour, he loses that portion which has not been received and paid for. In both cases it is assumed that he has no claim until delivery has taken place, and this is proved either by the reception of the building or the payment of the labour already executed. The article 1788 says distinctly, that if the things to be delivered perish by any accident before the completion of the delivery, the loss is to be at the charge of the workman, if it be he who furnish the materials, unless the party contracting with him have been legally summoned to proceed to the reception. Article 1790 says, that if the work executed upon materials furnished by the other party fail from defect of materials, the workman can claim to be paid for his labour. Article 1791 provides, that if the work be executed by the piece, the workman or even the builder can claim to have it measured as it proceeds. As soon as each portion is measured it is considered received, and ceases to be at the risk of the contractor, the builder, or workman.

By article 1794 the proprietor can annul the whole bargain at his own discretion, upon reimbursing all previous expenses, paying for the works executed, and compensating for the profit the builder was authorized to expect upon the completion of his contract.

Having premised thus much upon the spirit of the French legislation, we proceed to give a translation of the text of the Civil Code immediately bearing upon the question of the rights and duties of architects and builders.

BOOK 3, TITLE 8, CHAP. 3, SECT. 3.

"Of Estimates and Contracts."

Art. 1787. When any person charges another to execute a work, it may be agreed either that he furnish his labour or industry, or that he furnish at the same time the materials.

1788. If, in the case of the workman furnishing the materials, the thing, or work ("*la chose*") fail or perish, in whatsoever manner it may be, before delivery, the loss falls upon the workman, unless the employer had been legally summoned (*mis en demeure*) to receive it.

1789. If in the case of the workman's only furnishing his labour, or industry, the thing perish, he is only responsible for his own fault.

1790. If, in the case of the preceding article, the thing fail, even though without any fault on the part of the workman, before the work were received, and without the employers having been legally summoned to receive it, the workman cannot claim any wages, unless the work were lost by a defect of the materials.

1791. If the work be of many pieces or kinds, or such as can be measured, the verification can be made partially: it is supposed to be made for all the parts paid for, if the employer pay the workman in proportion to the work executed.

1792. If the edifice constructed for a determined price fail, in part, or totally, from any defect of construction, even by a defect of the soil, the architects and contractors are responsible for ten years.

1793. When an architect or a builder has undertaken to execute a construction for a fixed sum, upon a plan settled and agreed with the proprietor of the soil, he cannot demand any augmentation of price, either under pretence of an augmentation in the value of labour or of materials, or under that of changes or additions to the plans, unless these changes or additions be authorised by the proprietor, in writing, and the price be agreed upon with him.

1794. The employer, by his own will, may set aside a contract, although the work be commenced, on the condition of reimbursing the contractor for all his preliminary expenses, of paying for all the works, and all that he might gain by the completion of the contract.

1795. The contract for the hire of services is dissolved by the death of the workman, the architect, or the builder.

1796. But the proprietor is bound to pay, in proportion to the price agreed upon, to their heirs, administrators, &c., the value of the works done, and of the materials prepared, on the supposition only that these works and materials are useful to him.

1797. The contractor is responsible for the conduct of all whom he employs.

1798. The masons, carpenters, and other workmen who are employed in the erection of a building, or of any other works executed by contract, can only establish a claim against the proprietor for the sum which he may owe to the contractor at the moment of commencing their action.

1799. The masons, carpenters, smiths, and other workmen, who execute contracts without any intermediary party, are bound by the rules prescribed in the present section: they become contractors for the part they undertake.

2110. The architects, contractors, or workmen employed upon building or repairing houses, canals, or other works, and those who, in order to pay and reimburse them, have lent money to the proprietor, in case the due employ of this money be proved, are entitled, on registering—1st. The *proces verbal* which authenticates the state of the premises or places—2nd. The *proces verbal* of reception—to have their claims considered as first mortgagers, to the exclusion of any other claimants but those provided by law.

2270. After ten years, the architect and builder are exonerated from the responsibility attached to the main works (*gros ouvrages*) which they have directed.

BOOK 2, TITLE 2, CHAP. 6.

Art. 159. On taxing costs there shall be allowed to Experts (referees?) for every vacation of three hours, when they operate in the localities where they reside, or within 2 *myriamètres* (12½ miles) as follows:—

In the department of the Seine, for architects, or other artists, 8 francs (6s. 4d. English).

In the other departments, 6 francs (or 4s. 9½d. nearly).

160. Beyond 2 *myriamètres*, the travelling allowance per distance of 6¼ miles, 1 *myriamètre*, is, for the Paris architects, 6 francs; for those of the country, 4 fr. 50 c.

161. During their residence, they are, moreover, allowed, on the condition of making four vacations per day, as follows:—The architects from Paris, 32 francs (or 25s. 1d.); those of the departments, 24 francs (or 19s. nearly).

General Observations.—As may in all probability strike the reader, the intention of the framers of the French code was to protect the interests of the proprietor in every possible manner, and certainly the tendency of the legislation is very partial in his favour. It is also subject to the reproach which may be addressed to all the codes based upon the old Roman law; firstly, of precising over much the duties of the inferiors; secondly, of treating every man of business too much in the light of a cheat; of taking too many precautions against his becoming so; and, by the same rule, suggesting too many modes of deceiving. Our own common law is more lax; but it trusts to the good faith of the respective parties, and by so doing calls into play the quality it supposes. The tendency of the French law is just the reverse.

Much good, however, results in practice from the fact of the architect being made responsible for the durability of his works. We rarely hear in France of the fall of important buildings in consequence of their ignorance, or the employment of bad materials. Public opinion is also far more severe in that country than with us, when such instances occur. Navier, perhaps the first mathematician who ever practised as an engineer, is reported to have destroyed himself, because his suspension bridge of "les Invalides" fell into the Seine. The engineer of the Central Railway, who executed the bridge over the Loire, which sank during the execution, and afterwards fell down during the floods of 1847, was obliged to retire into private life; whilst English engineers allow bridges and viaducts to tumble down, and no notice is taken of it. Indeed, as long as the decision as to who are the parties to be blamed in these cases is left to juries, composed of the first twelve people who come to hand, such must ever be the case. We require some competent authorities to decide in these instances; and then our common sense would not be insulted by the fact of the fall of a viaduct being attributed to the washing out of the mortar in the arch joints, or to an unequal loading of the arches by the spreading of ballast in an irregular manner. In the first place, hydraulic mortar should have been used; in the second, a viaduct which could not resist an extra quantity of ballast is not fit for locomotive traffic.

It is true that the constant sense of responsibility is likely to restrain the adoption of new principles; but it is certainly likely to prevent architects or engineers from running unjustifiable risks.

The code is silent upon the subject of the architect's retribution. There are certain works which would be egregiously underpaid at 5 per cent. on the cost, whilst others would be as much overpaid at the same rate. Custom then decides, and the tribunals refer the enunciation of what is the custom to professional men, independent of both parties, named "experts," for the particular case.

As far as regards public buildings, the system of not paying a commission, but a fixed salary, is open to discussion. Certain it is, in the first place, that it puts a stop to undignified squabbles for money, which in no case can raise the reputation of an artist. From some cause (it cannot be this) the French government buildings are more profoundly studied than with us. The greater part of what is done in London and throughout England, shows that architecture is here more a trade than an art. There is a want of conscientious study, such as is to be met with in the best buildings erected by the municipal architects of Paris. Any person who will examine the details of the Madeleine, N. D. de Lorette, St. Vincent de Paul, must confess—even without agreeing with the taste in which they are conceived—that they exhibit traces of study and careful execution such as are unknown to us. We certainly dare more. We do the most wondrous works in the world: but we do not put the requisite amount of taste in them.

A USE FOR A BALLOON.—Lieut. Gale, the aeronaut, suggests that a balloon might be usefully employed in the search for Sir John Franklin. At an altitude of two miles he says a panorama of 1,200 miles would be placed within observation. — An American paper speaks of a large flying machine now being made in that country. "The canvass is all ready, and is about 80 yards in length and 50 in diameter. It is to be propelled by two oscillating five-horse power engines, which are already provided and secured in the car. They occupy a very small space and are well made; they are to propel the huge gaseous monster, by fan wheels, we believe."

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